



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	AB 902
Tax:	Transactions and Use	Author:	Strom-Martin
Board Position:	Neutral	Related Bills:	AB 7 (Thomson) AB 2061 (Salinas) AB 2400 (Salinas) AB 2758 (Briggs) SB 1889 (Johannessen)

BILL SUMMARY

This bill would authorize the cities of Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits, subject to majority approval by the city councils and two-thirds voter approval, to levy a transactions and use tax at a rate of $\frac{1}{4}$ percent, or multiple thereof, not to exceed 1 percent, for funding of the cities' road systems.

ANALYSIS

Current Law

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at $1\frac{1}{4}$ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. As of October 1967, all counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the $1\frac{1}{4}$ percent local tax.

Under the Bradley-Burns Law, the $\frac{1}{4}$ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed $1\frac{1}{4}$ percent.

Under the **Transactions and Use Tax Law** (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable combined rate of transactions and use taxes levied in any county may not exceed $1\frac{1}{2}$ percent, with the exception of the City and County of San Francisco (Ch. 73, Stats. 1993) and the County of San Mateo (Ch. 369, Stats. 1991), whose combined rates may not exceed $1\frac{3}{4}$ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for general purposes

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with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon two-thirds voter approval. Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

As stated above, Sections 7285, 7285.5, 7286.59, and 7288.1, authorize counties to levy transactions and use taxes under specified conditions. There is no such authority for cities to impose these taxes. Any city desiring to impose a transactions and use tax must seek special enabling legislation from the California Legislature.

The following cities, through specific legislation, have received authorization to impose a transactions and use tax: Avalon, Calexico, Clearlake, Clovis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Sebastopol, Truckee, West Sacramento, Woodland, and the town of Yucca Valley (the cities of Avalon, Calexico, Clearlake, Placerville, the Town of Truckee, and Woodland are currently imposing a tax). The City of Fresno (and its sphere of influence) had imposed a tax for the period 7/1/93 through 3/21/96; however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

As state above, the cities of Clearlake and Fort Bragg are authorized to impose a transactions and use tax. However, currently, only the City of Clearlake imposes a $\frac{1}{2}$ percent transactions and use tax. The combined state and local tax rate in the City of Clearlake is $7\frac{3}{4}$ percent. The combined state and local tax rate throughout Lake County, with the exception of City of Clearlake, is $7\frac{1}{4}$ percent (the City of Lakeport in Lake County is authorized to impose a transactions and use tax, but currently does not impose a transactions and use tax). Mendocino County imposes no additional countywide transactions and use tax. Therefore, the combined state and local tax rate throughout all of Mendocino County is $7\frac{1}{4}$ percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

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Proposed Law

This bill would add Chapter 2.64 (commencing with Section 7286.24) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize a qualified city to impose a transactions and use tax at a rate of $\frac{1}{4}$ percent, or multiple thereof, not to exceed 1 percent, upon majority approval of the city council and subsequent two-thirds voter approval. This bill defines a “qualified city” as the City of Clearlake, the City of Fort Bragg, the City of Point Arena, the City of Ukiah, and the City of Willits. The City of Clearlake is located in Lake County. The cities of Fort Bragg, Point Arena, Ukiah, and Willits are located in Mendocino County. The net revenues derived from the proposed tax would be exclusively expended for maintenance, repair, replacement, construction, or reconstruction of the cities’ road systems. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by these cities in providing maintenance, repair, replacement, construction, and reconstruction services of these cities’ road systems.

Background

Several bills were passed during the 2001 legislative session that authorized cities or special districts to impose transactions and use taxes. The Board took a neutral position on each of these bills.

AB 863 (Ch. 263, Stats. 2001) authorizes the City of West Sacramento to impose a transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, upon two-thirds or majority voter approval, as determined by the ordinance proposing the tax and establishing how the revenues shall be expended.

SB 685 (Ch. 474, Stats. 2001) authorizes the Fresno County Transportation Authority to continue to impose a transactions and use tax rate of $\frac{1}{2}$ percent, subject to two-thirds voter approval, for an additional 30 years to finance regional transportation improvements.

SB 1186 (Ch. 292, Stats. 2001) modifies the vote requirement for the existing City of Sebastopol transactions and use tax authority from a two-thirds to a majority approval by voters. The revenues generated by the tax are to be expended for the city’s general purposes.

SB 1187 (Ch. 285, Stats. 2001) authorizes Fresno County to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno County and may impose a transactions and use tax of 0.10 percent, subject to two-thirds voter approval, to fund those purposes.

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COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Lake County and Mendocino County to enable the cities of Clearlake (located in Lake County) and Fort Bragg, Point Arena, Ukiah, and Willits (located in Mendocino County) to raise additional revenues for maintenance, repair, replacement, construction, and reconstruction services for the cities' road systems.
2. **Summary of amendments.** The **June 10, 2002 amendments** authorized the cities of Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits to impose a transactions and use tax at a rate of $\frac{1}{4}$ percent, or multiple thereof, not to exceed 1 percent, for funding of the cities' road systems. The bill had previously been an income tax bill.

The **June 17, 2002 amendments** added provisions that would authorize the counties of Lake and Mendocino to impose a transactions and use tax in the unincorporated area of the county, at a rate of $\frac{1}{4}$ percent, or multiple thereof, not to exceed 1 percent, for funding of the county's road system. According to the author's office, the counties of Lake and Mendocino wanted to impose a tax in the unincorporated area of the county with approval by only the voters of the unincorporated area of the county. Also, according to the author's office, the Legislative Counsel concluded that, restricting the vote to only a portion of the voters in the county is unconstitutional. Thus, the Legislative Counsel would not draft the bill with language restricting the voter approval to the voters in the unincorporated area of the county. Consequently, the sponsors of the bill asked that the language regarding the counties be stricken from the June 17, 2002 version.

The **June 26, 2002 amendments** deleted the provisions related to the unincorporated areas of Lake and Mendocino counties from the bill. This version of the bill is identical to the June 10, 2002 version.

The **August 5, 2002 amendments** made two non-substantive changes to the bill.

3. **City imposed transactions and use tax limits the total transactions and use tax rate imposed within a county.** As stated above, the Transactions and Use Tax Law places a cap on the total transactions and use tax rate that may be levied within a county. The maximum allowable rate is $1\frac{1}{2}$ percent, except in the City and County of San Francisco and the County of San Mateo, which through special legislation, may not exceed $1\frac{3}{4}$ and 2 percent, respectively. Therefore, any transactions and use tax imposed in a city counts against the $1\frac{1}{2}$ percent cap, thus limiting the transactions and use tax rate that may be imposed in a county.

Currently, Lake County and Mendocino County do not impose a county-wide transactions and use tax. However, if Lake and Mendocino counties were to impose a transactions and use tax, the rate imposed would be limited by any transactions and use tax rate imposed by the cities. Currently, the City of Clearlake imposes a transactions and use tax rate of $\frac{1}{2}$ percent. Thus, if Lake County wished to levy a transactions and use tax, it would currently be limited to levying a transactions and use tax at a rate of 1 percent.

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4. **Locally-imposed taxes creates problems.** In 1955, the Bradley-Burns Uniform Local Sales and Use Tax Law was enacted in an effort to put an end to the problems associated with differences in the amount of sales tax levied among the various communities of the state. The varying rates between cities prior to the enactment of this uniform law created a very difficult situation for retailers, confused consumers, and created fiscal problems for the cities and counties. A retailer was faced with many situations that complicated tax collection, reporting, auditing, and accounting. Because of the differences in taxes between areas, a retailer was affected competitively. Many retailers advertised "no city sales tax if you buy in this area." This factor distorted what would otherwise have been logical economic advantages or disadvantages. With the enactment of the Bradley-Burns Law, costs to the retailer were reduced, and illogical competitive situations were corrected.

The Transactions and Use Tax Law is becoming as complicated as the local tax laws were before the enactment of the Bradley-Burns Law, and retailers and consumers are again experiencing the confusion caused by varying tax rates in varying communities. Prior to 1991, all districts imposing a transactions and use tax had boundaries equal to their respective county lines. In 1991, legislation was enacted for the first time to allow a city to impose a transactions and use tax. That city was Calexico. Currently, fifteen cities have gained such authorization. The proliferation of tax rates dependent on the area in which the sale is made compounds compliance problems for retailers doing business in several districts and makes record-keeping more complex, resulting in a larger margin of error and increased Board administrative costs.

5. **Multiplicity of tax rates is gaining national attention.** The Streamlined Sales Tax Project is a nationwide effort to simplify sales and use taxes in all states. Congress is currently reviewing this and other sales tax simplification efforts. Some proposals would expand states' rights to impose a use tax collection duty in exchange for certain simplifications, including the imposition of a single statewide sales and use tax rate. Allowing more cities to impose transactions and use taxes moves California away from national efforts concerning sales and use tax simplicity.
6. **Legislature should consider revising the Transactions and Use Tax Law to parallel the Bradley-Burns Uniform Local Tax Law.** There are over 470 cities in California. As more cities gain authorization to levy their own local taxes, the administration of these taxes becomes exceedingly complicated. Considering the increasing number of measures approved by the Legislature authorizing cities to impose transactions and use taxes, strong consideration should be given to revising the Transactions and Use Tax Law so that its provisions parallel the Bradley-Burns Law. In that way, all taxable sales attributable to a retailer located within that special taxing district would be subject to the district tax, regardless of where the property is delivered (unlike the state and Bradley-Burns tax, the transactions tax does not apply to gross receipts from the sale of property to be used outside the district when the property is shipped to a point outside the district). This would minimize the problems associated with districts that are not coterminous with county boundaries. However, retailers in varying communities with various tax rates could continue to be affected competitively.

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7. **It may not be cost effective for some cities to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated, and the maximum for a rate of one-half or greater of 1 percent is capped at 1.5 percent.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2001-02 administrative costs assessments to the existing special taxing jurisdictions range between \$4,000 (City of Avalon Municipal Hospital and Clinic) and \$6.5 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2001-02, it is estimated that the State General Fund will absorb \$1.5 million as a result of the cap limitations on administrative cost recovery.

8. **Related Legislation.** Three other bills have been introduced in 2002 that propose a transactions and use tax for specific cities. Assembly Bill 7 (Thomson) would authorize the City of Davis, Assembly Bill 2758 (Briggs) would authorize the City of Visalia, and Senate Bill 1889 (Johannessen) would authorize the City of Redding, subject to voter approval, to levy a transactions and use tax. The Board voted to be neutral on all three bills.

AB 2400, also authored by Assembly Member Salinas, would authorize Monterey County (in which the city of Salinas is located) to establish a local public finance authority for the purpose of financing the implementation of the general plan in Monterey County and impose a transactions and use tax at a rate not to exceed 1 percent, upon voter approval. The Board voted to be neutral on AB 2400.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the cities of Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits to impose a tax. However, if the cities passed the required ordinances, they would be required to contract with the Board to perform functions related to the ordinances, and reimburse the Board for their preparation costs to administer the ordinances as well as the ongoing costs for the Board's services in actually administering the ordinances.

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Based on the Board's experience with similar special-purpose taxes, it is estimated that the one-time preparatory costs could range between \$15,000 and \$40,000. The estimated ongoing administrative costs assessed to the special taxing jurisdictions could not exceed the following amounts for the various tax rates:

City of Clearlake - \$6,549 for the $\frac{1}{4}$ percent rate (3% x \$218,300 revenue) and $\frac{1}{2}$ percent rate (1.5% x \$436,600 revenue), and \$13,098 for the 1 percent rate (1.5% x \$873,200 revenue)

City Fort Bragg - \$10,404 for the $\frac{1}{4}$ percent rate (3% x \$346,800 revenue) and $\frac{1}{2}$ percent rate (1.5% x \$693,600 revenue), and \$20,808 for the 1 percent rate (1.5% x \$1,387,200 revenue)

City of Point Arena - \$411 for the $\frac{1}{4}$ percent rate (3% x \$13,700 revenue) and $\frac{1}{2}$ percent rate (1.5% x \$27,400 revenue), and \$821 for the 1 percent rate (1.5% x \$54,700 revenue)

City of Ukiah - \$23,252 for the $\frac{1}{4}$ percent rate (3% x \$775,100 revenue) and $\frac{1}{2}$ percent rate (1.5% x \$1,550,100 revenue), and \$46,505 for the 1 percent rate (1.5% x \$3,100,300 revenue)

City of Willits - \$6,549 for the $\frac{1}{4}$ percent rate (3% x \$218,300 revenue) and $\frac{1}{2}$ percent rate (1.5% x \$436,600 revenue), and \$13,098 for the 1 percent rate (1.5% x \$873,200 revenue).

As noted in Comment 7, it is possible that the actual administrative costs could exceed the cap and thereby result in additional General Fund expenditures. However, at this time it is unknown what impact, if any, approval of these taxes would have to the General Fund.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

This bill defines qualified cities as Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits.

Taxable sales in the above mentioned jurisdictions during the 2000-01 fiscal year were as follows:

<u>Jurisdiction</u>	<u>Taxable Sales</u>
Clearlake	\$ 87.3 million
Fort Bragg	138.7 million
Point Arena	5.5 million
Ukiah	310.0 million
Willits	87.3 million

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Revenue Summary

A transactions and use tax in the qualified cities would raise the following amounts annually.

Jurisdiction	Revenue			
	1/4%	1/2%	3/4%	1%
Clearlake	\$ 218,300	\$ 436,600	\$ 654,900	\$ 873,200
Fort Bragg	346,800	693,600	1,040,400	1,387,200
Point Arena	13,700	27,400	41,000	54,700
Ukiah	775,100	1,550,100	2,325,200	3,100,300
Willits	218,300	436,600	654,900	873,200

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Attachment 1
California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

01 Alameda	
State	6.00
Local	1.25
ACTA [#]	0.50
ACTI [#]	0.50
BART	0.50
	<hr/> 8.25

02 Alpine	
State	6.00
Local	1.25
	<hr/> 7.25

03 Amador	
State	6.00
Local	1.25
	<hr/> 7.25

04 Butte	
State	6.00
Local	1.25
	<hr/> 7.25

05 Calaveras	
State	6.00
Local	1.25
	<hr/> 7.25

06 Colusa	
State	6.00
Local	1.25
	<hr/> 7.25

07 Contra Costa	
State	6.00
Local	1.25
CCTA	0.50
BART	0.50
	<hr/> 8.25

08 Del Norte	
State	6.00
Local	1.25
	<hr/> 7.25

09 El Dorado	
State	6.00
Local	1.25
PLPS*	0.25
	<hr/> 7.50

10 Fresno	
State	6.00
Local	1.25
FCTA	0.50
FCPL	0.125
CCPS*	0.30
	<hr/> 8.175

11 Glenn	
State	6.00
Local	1.25
	<hr/> 7.25

12 Humboldt	
State	6.00
Local	1.25
	<hr/> 7.25

13 Imperial	
State	6.00
Local	1.25
IMTA	0.50
CXHD*	0.50
	<hr/> 8.25

14 Inyo	
State	6.00
Local	1.25
INRC	0.50
	<hr/> 7.75

15 Kern	
State	6.00
Local	1.25
	<hr/> 7.25

16 Kings	
State	6.00
Local	1.25
	<hr/> 7.25

17 Lake	
State	6.00
Local	1.25
CLPS*	0.50
	<hr/> 7.75

18 Lassen	
State	6.00
Local	1.25
	<hr/> 7.25

19 Los Angeles	
State	6.00
Local	1.25
LATC	0.50
LACT	0.50
AMHC*	0.50
	<hr/> 8.25

20 Madera	
State	6.00
Local	1.25
MCTA	0.50
	<hr/> 7.75

21 Marin	
State	6.00
Local	1.25
	<hr/> 7.25

22 Mariposa	
State	6.00
Local	1.25
MCHA	0.50
	<hr/> 7.75

23 Mendocino	
State	6.00
Local	1.25
	<hr/> 7.25

24 Merced	
State	6.00
Local	1.25
	<hr/> 7.25

25 Modoc	
State	6.00
Local	1.25
	<hr/> 7.25

26 Mono	
State	6.00
Local	1.25
	<hr/> 7.25

27 Monterey	
State	6.00
Local	1.25
	<hr/> 7.25

28 Napa	
State	6.00
Local	1.25
NCFP	0.50
	<hr/> 7.75

29 Nevada	
State	6.00
Local	1.25
NVPL	0.125
TRSR*	0.50
	<hr/> 7.375

30 Orange	
State	6.00
Local	1.25
OCTA	0.50
	<hr/> 7.75

31 Placer	
State	6.00
Local	1.25
	<hr/> 7.25

32 Plumas	
State	6.00
Local	1.25
	<hr/> 7.25

33 Riverside	
State	6.00
Local	1.25
RCTC	0.50
	<hr/> 7.75

34 Sacramento	
State	6.00
Local	1.25
STAT	0.50
	<hr/> 7.75

35 San Benito	
State	6.00
Local	1.25
	<hr/> 7.25

36 San Bernardino	
State	6.00
Local	1.25
SBER	0.50
	<hr/> 7.75

37 San Diego	
State	6.00
Local	1.25
SDTC	0.50
	<hr/> 7.75

38 San Francisco	
State	6.00
Local	1.25
SFTA	0.50
SFPF	0.25
BART	0.50
	<hr/> 8.50

39 San Joaquin	
State	6.00
Local	1.25
SJTA	0.50
	<hr/> 7.75

40 San Luis Obispo	
State	6.00
Local	1.25
	<hr/> 7.25

41 San Mateo	
State	6.00
Local	1.25
SMTA	0.50
SMCT	0.50
	<hr/> 8.25

42 Santa Barbara	
State	6.00
Local	1.25
SBAB	0.50
	<hr/> 7.75

43 Santa Clara	
State	6.00
Local	1.25
SCCT	0.50
SCGF	0.50
	<hr/> 8.25

44 Santa Cruz	
State	6.00
Local	1.25
SCMT	0.50
SZPL	0.25
	<hr/> 8.00

45 Shasta	
State	6.00
Local	1.25
	<hr/> 7.25

46 Sierra	
State	6.00
Local	1.25
	<hr/> 7.25

47 Siskiyou	
State	6.00
Local	1.25
	<hr/> 7.25

48 Solano	
State	6.00
Local	1.25
SLPL	0.125
	<hr/> 7.375

49 Sonoma	
State	6.00
Local	1.25
SCOS	0.25
	<hr/> 7.50

50 Stanislaus	
State	6.00
Local	1.25
STCL	0.125
	<hr/> 7.375

51 Sutter	
State	6.00
Local	1.25
	<hr/> 7.25

52 Tehama	
State	6.00
Local	1.25
	<hr/> 7.25

53 Trinity	
State	6.00
Local	1.25
	<hr/> 7.25

54 Tulare	
State	6.00
Local	1.25
	<hr/> 7.25

55 Tuolumne	
State	6.00
Local	1.25
	<hr/> 7.25

56 Ventura	
State	6.00
Local	1.25
	<hr/> 7.25

57 Yolo	
State	6.00
Local	1.25
WOGT*	0.50
	<hr/> 7.75

58 Yuba	
State	6.00
Local	1.25
	<hr/> 7.25

*ACTA expired 3/31/02 and ACTI became operative 4/1/02. The tax rate remained unchanged at 8.25%.
The tax in this district is not imposed throughout the county; it is a citywide tax. The county total includes the citywide district tax.